

§ 58-10-340. Definitions.

The following definitions apply in this Part:

- (1) An "affiliate" of or person "affiliated" with a specific person. – Defined in G.S. 58-19-5.
- (2) Alien. – An alien company as defined in G.S. 58-1-5.
- (3) Alien captive insurance company. – Any insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction which imposes statutory or regulatory standards in a form acceptable to the Commissioner on companies transacting the business of insurance in such jurisdiction.
- (4) Association. – Any legal association of individuals, corporations, limited liability companies, partnerships, associations, or other entities that meets the criteria set forth in either sub-subdivision a. or b. of this subdivision:
 - a. The member organizations of the association or the association itself, either alone or in conjunction with some or all of the member organizations, are described by any of the following:
 1. Owning, controlling, or holding with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer.
 2. Having complete voting control over an association captive insurance company incorporated as a mutual insurer.
 3. Constituting all of the subscribers of an association captive insurance company formed as a reciprocal insurer.
 4. Having complete voting control over an association captive insurance company formed as a limited liability company.
 - b. Each member organization of the association is one of the following:
 1. A not-for-profit corporation, nonprofit association, or similar nonprofit organization.
 2. An entity or organization exempt from taxation under Section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).
 3. A municipality, metropolitan government, county, authority, utility district, or other public body generally classified as a governmental body or governmental entity, whether organized by local act or public act of the General Assembly, or any agency, board, or commission of any municipality, metropolitan government, county, authority, utility district or other public body generally classified as a governmental body or governmental entity. This sub-sub-subdivision shall be liberally construed.
- (5) Association captive insurance company. – Any company that insures risks of the member organizations of an association, and that also may insure the risks of affiliated companies of the member organizations and the risks of the association itself.
- (6) Branch business. – Any insurance business transacted by a branch captive insurance company in this State.
- (7) Branch captive insurance company. – Any alien captive insurance company licensed by the Commissioner to transact the business of insurance in this State through a business unit with a principal place of business in this State. A branch captive insurance company is a pure captive insurance company

- with respect to operations in this State, unless otherwise permitted by the Commissioner.
- (8) Branch operations. – Any business operations of a branch captive insurance company in this State.
 - (9) Captive insurance company. – Any pure captive insurance company, association captive insurance company, industrial insured captive insurance company, risk retention group, protected cell captive insurance company, special purpose captive insurance company, or special purpose financial captive insurance company formed or licensed under this Part.
 - (10) Commissioner. – Defined in G.S. 58-1-5.
 - (11) Control. – Defined in G.S. 58-19-5. Notwithstanding this definition, for purposes of this Part, the fact that an SPFC exclusively provides reinsurance to a ceding insurer under an SPFC contract is not by itself sufficient grounds for a finding that the SPFC and ceding insurer are under common control.
 - (12) Repealed by Session Laws 2016-78, s. 4.1(a), effective June 30, 2016.
 - (12a) Core. – A protected cell captive insurance company, excluding its protected cells.
 - (13) Counterparty. – An SPFC's parent or affiliated company or a ceding insurer to the SPFC contract. A nonaffiliated company may be designated a counterparty, but that designation is subject to the prior approval of the Commissioner.
 - (14) Court. – Defined in G.S. 58-30-10.
 - (15) Department. – Defined in G.S. 58-1-5.
 - (16) General account. – All assets and liabilities of a protected cell captive insurance company not attributable to a protected cell.
 - (17) Incorporated protected cell. – A protected cell that is organized as a corporation or other legal entity separate from the protected cell captive insurance company of which it is a part.
 - (17a) Impairment. – When the assets of a captive insurance company or protected cell are less than the sum of its liabilities and required minimum capital and surplus.
 - (18) Repealed by Session Laws 2015-99, s. 1, effective June 19, 2015.
 - (19) Industrial insured. – An insured that meets all of the following:
 - a. It procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer.
 - b. Its aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars (\$25,000).
 - c. It has at least 25 full-time employees.
 - (20) Industrial insured captive insurance company. – Any company that insures risks of the industrial insureds that comprise the industrial insured group and that may insure the risks of the affiliated companies of the industrial insureds.
 - (21) Industrial insured group. – Any group of industrial insureds that collectively are described by any of the following:
 - a. Own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer.
 - b. Have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer.

- c. Constitute all of the subscribers of an industrial insured captive insurance company formed as a reciprocal insurer.
 - d. Have complete voting control over an industrial insured captive insurance company formed as a limited liability company.
- (22) Insurance securitization or securitization. – A transaction or a group of related transactions which meet the requirements of sub-subdivisions a. and b. of this subdivision:
- a. The transactions include capital market offerings that are effected through related risk transfer instruments and facilitating administrative agreements where all or part of the result of such transactions is used to fund the SPFC's obligations under a reinsurance contract with a ceding insurer and by which one of the following occur:
 - 1. Proceeds are obtained by a SPFC, directly or indirectly, through the issuance of securities by the SPFC or any other person.
 - 2. All of the following occur: (i) a person provides one or more letters of credit or other assets for the benefit of the SPFC; (ii) the Commissioner authorizes the SPFC to treat such letters of credit or other assets as admitted assets for purposes of the SPFC's annual report; and (iii) all or any part of such proceeds, letters of credit, or assets, as applicable, are used to fund the SPFC's obligations under a reinsurance contract with a ceding insurer.
 - b. The transactions do not include the issuance of a letter of credit for the benefit of the Commissioner to satisfy all or part of the SPFC's capital and surplus requirements under G.S. 58-10-575.
- (23) Member organization. – Any individual, corporation, limited liability company, partnership, association, or other entity that belongs to an association.
- (24) Mutual corporation. – A corporation organized without stockholders and includes a nonprofit corporation with members.
- (25) Mutual insurer. – A company owned by its policyholders where no stock is available for purchase.
- (26) NAIC. – Defined in G.S. 58-1-5.
- (27) Organizational documents. – The documents that must be submitted pursuant to North Carolina law in order to legally form a business in this State or to obtain a license to transact business in this State.
- (28) Parent. – A person that directly or indirectly controls a captive insurance company.
- (29) Participant. – Any person and any affiliate of such person that is insured by a protected cell captive insurance company, where the losses of the participant are limited through a participant contract.
- (30) Participant contract. – A contract by which a protected cell captive insurance company insures the risks of a participant and limits the losses of each such participant to its pro rata share of the assets of one or more protected cells identified in such participant contract.
- (31) Person. – Defined in G.S. 58-1-5.
- (32) Protected cell. – Either of the following:

- a. A separate account established by a protected cell captive insurance company licensed under this Part, in which assets and liabilities are segregated and insulated by means of this Part from the remainder of the protected cell captive insurance company's assets and liabilities, in accordance with the terms of one or more participant contracts to fund the liability of the protected cell captive insurance company, with respect to the participants as set forth in the participant contracts.
 - b. A separate account established and maintained by an SPFC for one SPFC contract and the accompanying insurance securitization with a counterparty.
- (33) Protected cell assets. – All assets, contract rights, and general intangibles identified with and attributable to a specific protected cell of a protected cell captive insurance company.
- (34) Protected cell captive insurance company. – Any captive insurance company meeting all of the following:
 - a. The minimum capital and surplus required by this Part are provided by one or more sponsors.
 - b. The company is licensed under this Part.
 - c. The company insures the risks of separate participants through participant contracts.
 - d. The company funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the protected cell captive insurance company's general account.
- (35) Protected cell liabilities. – All liabilities and other obligations identified with and attributed to a specific protected cell of a protected cell captive insurance company.
- (36) Pure captive insurance company. – Any company that insures risks of its parent or affiliated companies.
- (37) Risk retention group. – A captive insurance company organized under the laws of this State pursuant to the Liability Risk Retention Act of 1986, 15 U.S.C. § 3901, et seq., as amended, as a stock or mutual corporation or as a reciprocal or other limited liability entity. Risk retention groups formed under this Part are subject to all applicable insurance laws including, but not limited to, any applicable provisions in Articles 1, 2, 3, 7, 9, 10, 12, 19, 22, 33, and 34 of this Chapter.
- (38) Securities. – Those different types of debt obligations, equity, surplus certificates, surplus notes, funding agreements, derivatives, and other legal forms of financial instruments.
- (38a) Special purpose captive insurance company. – A captive insurance company that is formed or licensed under this Part that does not meet the definition of any other type of captive insurance company defined in this section and is designated as a special purpose captive insurance company by the Commissioner.
- (39) SPFC or Special Purpose Financial Captive. – A captive insurance company that has received a license from the Commissioner for the limited purposes provided for in this Part.
- (40) SPFC contract. – A contract between the SPFC and the counterparty pursuant to which the SPFC agrees to provide insurance or reinsurance

protection to the counterparty for risks associated with the counterparty's insurance or reinsurance business.

- (41) SPFC securities. – The securities issued by an SPFC.
- (42) Sponsor. – Any person that is approved by the Commissioner to provide all or part of the capital and surplus required by this Part and to organize and operate a protected cell captive insurance company.
- (43) Surplus note. – An unsecured subordinated debt obligation deemed to be a surplus certificate under this Part and otherwise possessing characteristics consistent with paragraph 3 of the NAIC's Statement of Statutory Accounting Principles No. 41, as amended. (2013-116, s. 1; 2014-65, s. 1; 2015-99, s. 1; 2016-78, s. 4.1(a).)